

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
GREENVILLE DIVISION**

**NAKALA MURRY, INDIVIDUALLY AND
ON BEHALF OF HER SON, A.M., A MINOR**

PLAINTIFF

v.

CIVIL ACTION NO.: 4:23CV97-DMB-DAS

CITY OF INDIANOLA, MISSISSIPPI, et al.

DEFENDANTS

**DEFENDANTS' RESPONSE IN OPPOSITION TO
PLAINTIFF'S MOTION TO STRIKE PENDING MOTION TO FILE AMENDED
COMPLAINT AND FOR LEAVE TO FILE RENEWED MOTION TO AMEND**

NOW COME, Defendants, City of Indianola, Mississippi; Chief Ronald Sampson, in his Individual and Official Capacities; and, Sgt. Greg Capers, in his Individual and Official Capacities, by and through counsel, and respectfully file this, their Response in Opposition to Plaintiff's Motion to Strike Pending Motion to File Amended Complaint and for Leave to File a Renewed Motion to Amend her Complaint, to-wit

I. PREMISE

With no justifiable basis or authority enumerated in the *Federal Rules of Civil Procedure* nor the Local Rules for Plaintiff's requested relief, with no showing of good cause nor excusable neglect, and with no proposed amended pleading attached as clearly required by the local rules, Plaintiff now seeks leave to file a Renewed Motion to Amend Complaint and to strike Plaintiff's pending Motion to Amend. Denial of Plaintiff's instant Motion is necessary as Plaintiff's request runs afoul of both fundamental fairness and the applicable procedural and local rules. Because Plaintiff's motion for leave comes after the expiration of the time set by this Court's Order granting Plaintiff until no later than August 2, 2024, to seek leave to amend her complaint, Plaintiff was required to meet the higher

standard of “excusable neglect” as provided by *Fed. R. Civ. Pro.* Rule 6(b)(1)(B) as well as the good cause standard under *Fed. R. Civ. Pro.* Rule 16(b)(4). This, Plaintiff has not even attempted to do, nor could she.

Nonetheless, this Court need consider Plaintiff’s request for leave to file a Renewed Motion to Amend Complaint and to strike Plaintiff’s pending Motion to Amend because Plaintiff has failed to attach her proposed amended complaint or her proposed motion to her instant Motion as required by *Uniform District Court* Rule 7(b)(2)&(4) and Rule III(A)(2) of the *Administrative Procedures for Electronic Case Filing*. Likewise, this Court should deny Plaintiff’s Motion outright as Plaintiff has failed to cite, and Defendants are unable to locate, any rule within the *Federal Rules of Civil Procedure* nor the local rules authorizing Plaintiff’s requested relief. Accordingly, Plaintiff’s *Motion to Strike Pending Motion to File Amended Complaint and for Leave to File Renewed Motion to Amend her Complaint* should be denied.

II. BRIEFING

As required by *Uniform District Court Rule* 7(b)(2), an appropriate memorandum of supporting authority is being filed herewith.

NOW, THEREFORE, for the reasons stated hereinabove and in Defendants’ contemporaneously filed Memorandum of Authorities, Defendants, City of Indianola, Mississippi, Chief Ronald Sampson, in his Individual and Official Capacity, and, Sgt. Greg Capers, in his Individual and Official Capacity, respectfully request this Court deny Plaintiff’s *Motion to Strike Pending Motion to File Amended Complaint and for Leave to File a Renewed Motion to Amend her Complaint*. Defendants also pray that this Court grant Defendants any and all other relief this Honorable Court deems to be fair and just.

RESPECTFULLY SUBMITTED, this the 25th day of September 2024.

JACKS GRIFFITH LUCIANO, P.A.

By: /s/ **M. McKenzie W. Price**

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CERTIFICATE OF SERVICE

I, M. McKenzie W. Price, attorney of record for Defendants, City of Indianola, Mississippi, Chief Ronald Sampson, in his Individual and Official Capacity, and, Sgt. Greg Capers, in his Individual and Official Capacity, do hereby certify that I have this day caused a true and correct copy of the above and foregoing *Response in Opposition to Plaintiff's Motion to Strike Pending Motion to File Amended Complaint and for Leave to File a Renewed Motion to Amend her Complaint*, to be delivered by the ECF Filing System to the following:

Carlos E. Moore, Esq.

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Attorney for Plaintiff

DATED this 25th day of September, 2024.

/s/ M. McKenzie W. Price

M. McKenzie W. Price